

## **REMARKS/ARGUMENTS**

Claims 1-45 are pending in the application. Claims 1-45 have been rejected. In the Office Action of Oct. 18, 2004, the Examiner:

- Stated that the Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. §120.
- Rejected claims 1-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent 6,724,401 B1 and claims 1-41 of Patent No. 6,259,445 B1.

With regards to the Examiner's statement that the Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. §120, the Applicant has amended the specification to include a proper claim of priority (see above), as suggested by the Examiner. For the foregoing reason, Applicant has respectfully traversed the Examiner's finding. The Examiner further states that the declarations originally submitted for the instant patent application must be rewritten and resubmitted to reflect the proper claim of priority. The Applicant submits herewith new declarations reflecting the proper claim of priority.

With regards to the Examiner's rejection of claims 1-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent 6,724,401 B1 and claims 1-41 of Patent No. 6,259,445 B1. The Examiner stated in the telephone interview of 10/08/04 that a terminal disclaimer would obviate this rejection. The Applicant submits herewith two terminal disclaimers – one for U.S. Patent 6,724,401 B1 and one for Patent No. 6,259,445 B1 – to obviate the non-statutory obviousness-type double patenting rejection above. For the foregoing reason, Applicant has respectfully traversed the Examiner's rejection.

For the foregoing reasons, Applicant respectfully requests reconsideration of the application, allowance of the pending claims, and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



Mark Terry, Reg. No. 47,133, signing for:

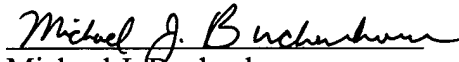
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### **Certificate of First-Class Mail Mailing**

I hereby certify that this Amendment and Response to Office Action, and any documents referred to as attached therein are being deposited in the U. S. Post Office as first-class mail on this date, 12/22/04, to the Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.



Michael J. Buchenhorner